

et al simply teaches that the bacteria of the genus *Lactobacillus* do not exhibit deconjugation of bile acids. However, contrary to the position taken in the Official Action, this does not imply that these bacteria also possess a reduced 7 α -dehydroxylase activity.

In fact, as reported in Lewis et al, Arch. Intern. Med., vol. 130, pp.545-49 (1972) (cited by the Examiner): "7-dehydroxylation may occur without deconjugation..... This suggested that 7-dehydroxylation of cholyl glycine occurred without deconjugation" (See in particular page 547, right hand column).

Therefore, it is clear that the two activities (deconjugation and 7 α -dehydroxylase of bile acids) must be considered as completely separate activities, which are independent from each other. These activities are possessed by the bacteria separately and, if a strain possesses one of these activities, it is not obvious or to be expected that it possesses also the other activity (see Lewis et al cited above).

It is further pointed out that nowhere in text of Saito et al is it mentioned or even suggested that the bacteria of the genus *Lactobacillus* exhibit a 7 α -dehydroxylation activity. Hence, in the light of Saito et al and in the light of Lewis et al mentioned above, it was not to be expected and it was surprising to find some strains which exhibit both the activities simultaneously, as do the strains of the species *Streptococcus thermophilous* and *Lactobacillus bulgaricus* presently claimed by the Applicants.

This is also confirmed by a comparison between Table I and Table II, wherein it is demonstrated that many strains possess only the deconjugation activity or only the 7 α -dehydroxylase activity.

Salvioli et al is no longer relevant because the species *Streptococcus faecium* is not claimed in the present claims. In any case, this reference does not mention a deconjugation activity and only teaches that the strain *Streptococcus faecium* exhibits a 7 α -dehydroxylase

activity by means of an indirect mechanism, that is by changing the intestinal milieu and acting against Clostridia and other intestinal microorganisms (see page 80, column 1, line 3 from top; page 87, column 1, line 4 from bottom). Moreover, it is pointed out that the strains *Streptococcus thermophilus* and *Lactobacillus bulgaricus* presently claimed are aerobic strains, while the passage at page 80, column 1 cited in the Official Action relates to anaerobic bacteria.

In summary, none of the cited references disclose or suggest the presently claimed bacteria strains.

For all of these reasons, the rejection is improper and should be withdrawn.

The rejection of Claims 4-11 under 35 U.S.C. §112, first paragraph, is respectfully traversed. All of the specific strains now recited in the claims have been deposited with the CNCM, Collection Nationale de Cultures de Microorganismes, Institut Pasteur, under the provisions of the Budapest Treaty. In support of this position, Applicants cite the copies of the deposit receipts for *Streptococcus thermophilus* YS 52, *Streptococcus thermophilus* YS 46, *Streptococcus thermophilus* YS 48, *Lactobacillus bulgaricus* LB 1, *Lactobacillus bulgaricus* LB 3, *Lactobacillus bulgaricus* LB 7, and *Lactobacillus bulgaricus* LB 77 being filed herewith as Exhibits A-I. Accordingly, the rejection should be withdrawn.

The rejection of Claims 1-11 under 35 U.S.C. §112, first paragraph, has been obviated by appropriate amendment. As the Examiner will note, Applicants have amended the claims to delete the language "and descendants, mutants, and derivatives thereof preserving activities (a) and (b)." Accordingly, the rejection is no longer tenable and should be withdrawn.

The objection to the disclosure has been obviated by appropriate amendment. As the Examiner will note, Applicants have amended pages 7 and 8 such that they are free of the criticisms outlined at the top of page 3 of the Official Action.

Applicants are complying with the Examiner's requirement for a new Declaration under 37 C.F.R. 1.67(a), by filing a new duly executed Declaration herewith.

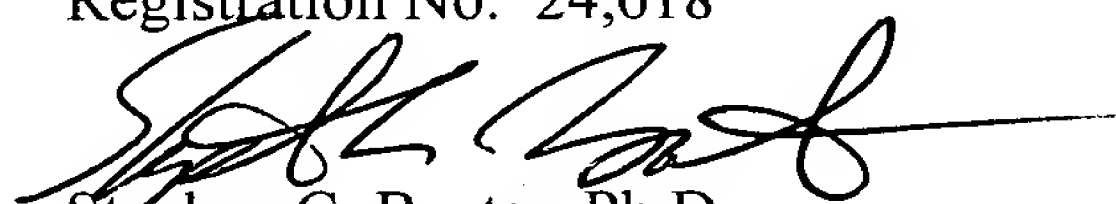
Lastly, Applicants note the Examiner's comment at the bottom of page 5 of the Official Action, where it is indicated that a certified English translation of the Italian Priority Application has not been filed. However, a certified English translation of the Italian Priority Application was filed with the application on March 7, 1999, as evidenced by the attached copy of the date-stamped filing receipt. Acknowledgment of the filing of the certified English translation of the Italian Priority Application in the next communication from the PTO is respectfully requested.

Applicants submit that the application is now in condition for allowance, and early notification of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Norman F. Oblon
Attorney of Record
Registration No. 24,618



Stephen G. Baxter, Ph.D.
Registration No. 32,884

Crystal Square Five - Fourth Floor
1755 Jefferson Davis Highway
Arlington, VA 22202
(703) 413-3000
Fax #: (703) 413-2220
SGB/rac
I:\atty\SGB\70630001.Amend.wpd